

# EXHIBIT 5

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
LYNCHBURG DIVISION**

**CHRISTOPHER WITHERS,**

**Plaintiff,**

**V.**

Case No. 6:20cv65

**SAM GREEN, et al.**

**Defendants.**

**DECLARATION OF ERIC SPITZER**

Commonwealth of Virginia, County of Campbell to wit:

1. My name is Eric Spitzer.
2. I am over the age of eighteen (18) and competent to declare the matters contained herein.
3. I base the information contained in this Declaration on my personal knowledge.
4. I am a member of the Rustburg Volunteer Fire Department.
5. On the night of September 29, 2018, I along with other members of the Rustburg Volunteer Fire Department responded to a call near Old Rustburg Road in Campbell County.
6. That same night, we used our truck to block the road so a vehicle that appeared to be pursued by a law enforcement vehicle was forced to stop.
7. I observed two deputies pull the driver from the vehicle after it stopped.
8. I was still in the truck at the time and did not see the deputies take the driver to the ground.

**FAP**  
**FRITH**  
**ANDERSON**  
**+PEAKE PC**  
ATTORNEYS AT LAW  
Roanoke, Virginia

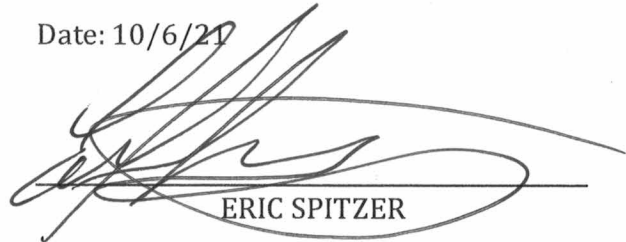
9. After I got out of the truck, the deputies were in the ditch line attempting to hand cuff the driver.

10. I did not observe the deputies punch, kick, or otherwise abuse the driver as they attempted to hand cuff him.

11. I did not observe the deputies do anything unprofessional during their attempt to hand cuff the driver.

12. I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Date: 10/6/21



ERIC SPITZER